

## Article 1

### General Provisions

## § 1.1 Title

These regulations shall be known as the Chesapeake City Comprehensive Development Ordinance. They may be referred to herein as the “Comprehensive Development Ordinance”, or this “Ordinance”.

## § 1.2 Authority

The Mayor and Town Council have the authority to adopt this Ordinance pursuant to Article 66 B of the Annotated Code of Maryland.

## § 1.3 Purpose

### § 1.3.1 General Purpose

The purpose of this Ordinance is to protect and promote the public health, safety and general welfare of the residents and citizens of the Town of Chesapeake City. It is a comprehensive and unified set of regulations that govern the subdivision, development, and use of land.

### § 1.3.2 Specific Purposes

This Ordinance is adopted for the following particular purposes:

- Implement policies of the Chesapeake City Comprehensive Plan. To implement the goals, policies, and provisions of the adopted Comprehensive Plan and its subsequent updates.
- Protect the small town character of the Town. To protect and improve upon the small town and historic character of Chesapeake City and the social and economic stability of the existing residential, commercial and other land uses within the Town.
- Promote good planning practice. To promote good planning practice and to provide regulatory mechanisms which include appropriate standards for new development, streamlined procedures for minor development approvals, and enhanced provisions for oversight, inspection, and conformance with approved plans.

- Promote efficient land use and infrastructure. To promote the efficient use of land and the orderly, efficient and responsible development of essential public facilities and services.
- Promote good development practices. To promote development practices which conserve and protect water, energy and other resources and discourage land consumptive, low density, and single-use development patterns which run counter to traditional building practices in the Town.
- Encourage mixed use development and interconnectivity. To encourage mixed use development and interconnectivity between and within developments.

## § 1.4 Severability

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such part is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining parts of this Ordinance.

## Article 2

### Administration and Enforcement

## **§ 2.1 Roles of Official Bodies**

### **§ 2.1.1 Zoning Administrator**

#### **A. Establishment**

It shall be the duty of the Zoning Administrator to administer and enforce this Ordinance and to take all actions that are required by this Ordinance.

#### **B. Enforcement**

If the Zoning Administrator finds that this Ordinance is being violated, he/she shall notify in writing the person responsible for such violations, indicate the nature of the violation and order action necessary to correct it. The Zoning Administrator shall:

1. Order discontinuance of the illegal use of land, buildings, or structures;
2. Order removal of illegal buildings or structures or of additions, alterations, or structural changes thereto;
3. Order discontinuance of any illegal work being done; or
4. Take any other action authorized to insure compliance or to prevent violation.

#### **C. Issuance of Permits**

The Zoning Administrator shall issue permits for the erection, construction, addition, demolition, moving or structural alteration of buildings and structures and for the use of land.

1. No building or other structure shall be erected, moved, added to, or structurally altered, or use of land be changed without a permit authorizing such work.
2. No permit shall be issued except in conformity with this Ordinance.

**D. Notice to Critical Area Commission**

Except as provided herein, when the Town receives an application for any development, subdivision, site plan, rezoning, special exception, variance, or timber harvesting pertaining to land in the Critical Area, the Zoning Administrator shall send official notification thereof and a copy of the application to the Critical Area Commission:

1. The proposed structure is no greater than 250 square feet in size.
2. The proposed structure is a single-family house.

**E. Appeals**

Any person or agency aggrieved or affected by a decision of the Zoning Administrator may appeal such decision to the Board of Appeals per §2.2.6 of this Ordinance.

**§ 2.1.2 Planning Commission**

**A. Establishment**

The Planning Commission shall have the authority to:

1. Prepare and recommend a comprehensive plan for the Town of Chesapeake City and review and update, as needed, the plan at least once every six (6) years;
2. Advise the City Commissioners on all matters relating to the orderly planning and growth of the Town.
3. Prepare and recommend amendments to this Ordinance, including the Official Zoning Map;
4. Review and make recommendations to the Board of Appeals on special exceptions based on findings of fact;
5. Review proposed public facilities for consistency with the comprehensive plan and, prior to the City's adoption or amendment, review and make a recommendation on the Capital Improvements Plan;
6. Review and decide on Category 1 Site Plans as provided for in §3.1.3 of this Ordinance;
7. Review and decide on requests for certain modifications to site plan requirements including parking, landscaping, and building design modification;
8. Review and decide on subdivision plats;

9. Prepare, adopt, and distribute an annual report; and
11. Conduct other activities and duties as set forth in this Ordinance, or as requested by the City Commissioners, or and as provided for by Article 66B of the Maryland Annotated Code.

**B. Membership**

1. The Planning Commission shall consist of seven members, who are residents of the Town. All members shall be appointed by the Town Council.
2. Members shall be appointed for five-year terms and terms of appointment shall be staggered.
3. Vacancy in membership for an unexpired term shall be filled for the unexpired term by appointment by the Town Council. The Town Council shall consider a recommendation from the Planning Commission if one is provided.

**C. Officers**

1. The Commission shall elect from its membership a chairperson and vice-chairperson, annually.
2. The terms of the officers shall be one year, with eligibility for reelection.

**D. Meetings**

1. The Planning Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action on all complete applications in an expeditious manner. The Planning Commission shall hold meetings quarterly or more often as the Planning Commission's duties require. If there is no business before the Planning Commission, the Chairman may cancel the meeting. The Planning Commission shall hold regular meetings at a regular schedule to conduct the business to be brought before it and shall at least meet every three months or four time per years.
2. Special meeting of the Commission may be called by the chairman.
3. All Commission meetings shall be open to the public.
4. Four members of the Commission shall constitute a quorum.
5. No action of the Commission shall be valid unless authorized by a majority vote of those present and voting.

6. The Chairperson and Vice-Chairperson may take part in all deliberations and vote on all items.

**E. Proceedings of the Planning Commission**

1. The Commission shall adopt written rules necessary to the conduct of its affairs.
2. All meetings shall be open to the public.
3. The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record.
4. **Decisions Based on Findings of Fact.** All decisions of the Planning Commission, whether favorable or unfavorable to the applicant, shall be based on and supported by written findings of fact pertaining to the case under review. No decision of the Planning Commission shall be final until the written decision of the Commission is signed and filed.

**F. Modifying the Provisions of this Ordinance**

The Planning Commission may, upon the review of a site plan, but only where and as so provided in this Ordinance, modify certain provisions upon its finding that such modification is the minimum necessary to faithfully implement the purposes of this Ordinance and implement the adopted Comprehensive Plan. This authority is distinctly different from the authority to grant a variance as provided in §2.2.5, which authority rests solely with the Board of Appeals.

**G. Appeals**

Any person aggrieved by a decision of the Planning Commission and desiring to appeal such decision may file a petition for judicial review through the Circuit Court of Cecil County.



### **§ 2.1.3 Board of Appeals**

#### **A. Establishment**

The Board of Appeals shall have the authority to:

1. Hear and decide appeals from any order, requirement, decision, action, or determination made by the Zoning Administrator. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have powers of the Zoning Administrator from whom the appeal is taken. The Board of Appeals is only authorized to hear and decide on appeals of the Zoning Administer and no other agency or body.
2. Hear and decide Special Exceptions that have first obtained a favorable recommendation from the Planning Commission as authorized under §2.2.7 of this Ordinance.
3. Authorize a variance from the terms of the Ordinance as provided for in §2.2.5 of this Ordinance.

#### **B. Membership**

1. The Board shall consist of five members who are residents or property owners in the Town. The Town Council shall appoint the members.
2. Members shall be appointed for terms of three years each. Vacancies shall be filled by appointment for the unexpired term.
3. The Town Council shall designate one alternate member for the Board of Appeals who may be empowered to sit with the Board in the absence of any member of the Board, and when the alternate is absent the Town Council may designate a temporary alternate.

#### **C. Proceedings of the Board of Appeals**

1. The Board shall adopt rules necessary to the conduct of its affairs. Meetings shall be held at the call of the Chairperson. The Chairperson, or in his/her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.
2. All meetings shall be open to the public.
3. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record.

4. Decisions Based on Findings of Fact. All decisions of the Board, whether favorable or unfavorable to the applicant shall be based on and supported by written findings of fact pertaining to the case under review. No decision of the Board shall be final until the written decision of the Board is signed and filed.

**D. Special Procedural Provisions**

1. The concurring vote of the majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.
2. If any application or request is disapproved by the Board, thereafter the Board shall not accept application for substantially the same proposal on the same property for a period of one year from the date of such disapproval.
3. If an appeal to the Board is filed and the public hearing date set and public notice given, and thereafter the applicant withdraws the appeal, the applicant shall not file another application for substantially the same proposal on the same property for a period of one year from the date of withdrawal.

**§ 2.1.4 Historic District Commission**

**A. Establishment**

The Historic District Commission shall have the authority to:

1. Hear applications for development activities within the Historic District and to adopt and file with the Planning Commission certificates of approval or rejection on same.
2. To purchase architectural easements.

**B. Membership**

1. The Mayor and Town Council shall appoint the members of the Commission.

2. The Commission shall consist of seven members, all of whom, insofar as is possible, are qualified by special interest, knowledge or training in such fields as history, architecture, preservation or urban design.
3. All of the Commission members shall be residents of the Town. At least three of the members shall be residents of the Historic District Area. Effective with the first vacancy on the Commission upon adoption of this Ordinance, one member shall be a sitting member of the Town Council.
4. Members of the Commission shall be appointed for a five (5) year term. Any vacancy on the Historic District Commission shall be filled by the Mayor and Town Council for the unexpired term.

**C. Proceedings of the Historic District Commission**

1. The Commission shall adopt rules of procedure as needed to conduct its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the Chairman.
2. The Commission shall organize annually and, by election, shall select from its membership a chairman, vice-chairman and a secretary.
3. Meetings shall be open to the public.
4. Any interested person is entitled to appear and to be heard by the Commission before it reaches a decision on any matter.
5. The Historic District Commission shall keep an open record of its resolutions, proceedings, and actions which shall be kept available for public inspection during reasonable business hours.
6. Four members of the Commission shall constitute a quorum for the transaction of business, and a majority vote of the members present shall control the action of the Commission.

**D. Decisions Based on Findings of Fact**

All decisions of the Commission, whether favorable or unfavorable to the applicant, shall be based on and supported by written findings of fact pertaining to the case under review. No decision of the Commission shall be final until the written decision of the Commission is signed and filed.

## **§ 2.1.5 Mayor and Town Council**

### **A. General Duties of Mayor and Town Council**

The duties of the Mayor and Town Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise.

### **B. Specific Duties of Mayor and Town Council**

Under this Ordinance, the Mayor and Town Council shall have the following duties:

1. To consider and decide on proposed amendments or the repeal of this Ordinance, as provided by law.
2. To consider and decide on annexation petitions upon receiving a recommendation from the Planning Commission per §3.4.1 of this Ordinance.
3. To enter into Public Works Agreements and other development agreements as necessary and allowed by law to implement this Ordinance.
4. To establish a schedule of fees, fees-in-lieu, and charges.
5. To appoint qualifying members of commissions and boards.
6. To remove any member of a commission or board established by this Ordinance for inefficiency, neglect of duty, or malfeasance in office after providing written notice of charges and conducting a public hearing.

## **§ 2.2 General Permit and Application Procedures**

### **§ 2.2.1 Zoning Permits and Occupancy Permits**

#### **A. Zoning Permit Required**

1. A zoning permit certifies that an application complies with this Ordinance. Before an individual does any of the following, he or she must obtain a zoning permit: erect a building or structure, or enlarge, move, add to, or structurally alter a building, or excavate for a building or structure, or initiate any development activities pursuant to an approved site plan or subdivision plat.
2. The Planning Commission shall issue zoning permits for approved Category 1 site plans (plans for commercial, multi-family residential and institutional developments, for example) and major subdivision plats.
3. The Planning Commission shall issue zoning permits for approved Category 2 site plans (plans for single family homes and additions, for example) and minor subdivision plats unless it has delegated such authority to the Zoning Administrator through its adoption of its written rules of procedure.

#### **B. Expiration of Zoning Permit**

1. A zoning permit shall automatically expire one year from the date of its issuance if no work described in the permit has begun. The Zoning Administrator shall cancel the permit and provide written notice thereof to the persons affected.
2. If work described in any zoning permit has not been substantially completed within two years of the date of issuance, unless work is satisfactorily proceeding thereon, the Zoning Administrator shall cancel the permit and provide written notice thereof to the persons affected,
3. No work on a cancelled permit may proceed unless and until a new zoning permit has been obtained.

**C. Occupancy Permits for New, Altered, or Non-Conforming Uses**

1. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until an occupancy permit shall have been signed by the Zoning Administrator and issued by the County Department of Permits and Inspections, stating that the proposed use of the building or land conforms to the requirements of this Ordinance.
2. No non-conforming structure or use shall be renewed, changed, or extended until the Zoning Administrator shall have issued a zoning occupancy permit. The zoning occupancy permit shall state specifically wherein the non-conforming use differs from the provisions of this Ordinance.
3. An applicant for an occupancy permit involving a change of use of a building shall first submit the application to the Cecil County Government for review and comment and then to the Zoning Administrator for permit review.
4. A temporary occupancy permit may be issued for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary permit may require such conditions and safeguards as will protect the safety of the occupants and the public.
5. As-built site plans: Two copies of the "as-built" site plan certified by an engineer shall be submitted to the Zoning Administrator prior to issuance of a zoning occupancy permit for any building shown on a Category 1 Site Plan.
6. The Zoning Administrator shall maintain a record of all zoning occupancy permits and copies shall be furnished upon request to any person.
7. Failure to obtain a zoning occupancy permit shall be a violation of this Ordinance and punishable under §2.2.5 of this Article.

**D. Construction and Use to be as Provided in Applications, Plans, Certificates, and Permits**

1. Zoning permits and zoning occupancy permits authorize only that which is set forth on approved plans and applications, and no other use, arrangement, or construction.
2. Use, arrangement, or construction differing with that authorized shall be deemed violation of this Ordinance.

## **§ 2.2.2 Building and Demolition Permits**

### **A. Purpose of Building Permit**

A building permit certifies that an application complies with the Cecil County Building Code as may be supplemented, amended, and revised from time to time.

### **B. Building Permit Required**

Before any of the following can take place, an applicant must obtain a building permit: erect a building or structure, or enlarge, move, add to, or structurally alter a building, or excavate for a building or structure, initiate any construction activities pursuant to an approved development site plan or subdivision plat.

### **C. Cecil County Permit and Inspection Approval Required**

Before the Zoning Administrator can issue a building permit, the Cecil County Permit and Inspection shall have reviewed and approved the required plans and issued a County Building Permit.

### **D. Conditions and Restrictions on a Building Permit**

1. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards on the building permit.
2. The Zoning Administrator may place conditions on the issuance of a building permit.
3. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted or a permit is issued, shall be deemed a violation of this Ordinance.

### **E. Demolition Permits Required**

1. Before any activities to demolish or remove in whole or part, any building or structure an applicant must first obtain a demolition permit from the Zoning Administrator and Cecil County Government, which permit may be subject to an applicable fee set forth in the Town's Schedule of Fees.
2. The Zoning Administrator may place conditions on the issuance of a demolition permit.

3. Prior to issuing a demolition permit in the Historic District, the Zoning Administrator shall first forward the application to the Historic District Commission for review.

**F. Expiration of Building or Demolition Permit**

Every permit issued shall become null and void if the work authorized by such permit is not commenced within 180 days after its issuance or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the work is commenced. The Town's Zoning Administrator is authorized to grant in writing one or more extensions of time for periods of not more than 180 days each subject to payment of an applicable fee for each such extension which fee amount shall be set forth in the Town's Schedule of Fees. The extension shall be requested in writing with justifiable cause demonstrated.

### **§ 2.2.3 Amendments to this Ordinance**

**A. Who May Initiate**

Proposals for amendment, supplement, change, modification, or repeal may be initiated by the Town Council on its own motion, by the Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment, subject to the following provisions:

1. Proposals originated by the Town Council. The Town Council shall refer every proposal originated by the Town Council to the Planning Commission. Within 60 days of the submission, the Planning Commission shall submit to the Town Council a report containing the Planning Commission's recommendations, including any additions or modifications to the original proposal.
2. Proposals originated by the Planning Commission. The Planning Commission may at any time transmit to the Town Council a proposal.
3. Proposals originated by a citizen's petition. Each petition by one or more owners of property to be affected by a proposal for amendment, supplement, change, or modification shall be submitted on forms provided therefore to the Zoning Administrator. On receipt of said petition, the Zoning Administrator shall transmit a copy of the petition to the Planning Commission.



4. All amendments shall be the subject of a public hearing conducted by the Planning Commission. The Planning Commission shall conduct the hearing within 60 days of submission of proposed amendment and then within 45 days following a public hearing, the Commission shall submit a report to the Town Council containing the Commission's recommendations, including any additions or modifications of the original proposal. Failure to submit a report within 45 days shall be deemed approval of the petition by the Planning Commission. The Town Council shall defer action on a petition until the recommendations of the Planning Commission are received and reviewed or until 45 days have elapsed, whichever may occur first.

**B. Criteria for a Valid Zoning Map Change**

Except as part of a comprehensive rezoning of the Town of Chesapeake City, the Town Council shall approve no amendment to the Official Zoning Map unless it first finds upon a preponderance of evidence that either of the following criteria to have been met:

1. There was a mistake in the preparation of the Official Zoning Map.
2. Since the adoption of the current Comprehensive Plan, there has been a substantial change in the character of the neighborhood where the map amendment is proposed.

**C. Town Council Public Hearing and Notice**

1. No such amendment, supplement, change, modification, or repeal shall become effective until after a public hearing by the Town Council in relation thereto.
2. When such hearing concerns a zoning map change, the Town shall post in a conspicuous place on the property involved a notice of pending action; such posting to take place at least 15 days prior to the date fixed for public hearing.
3. When such hearing concerns a zoning map change, the Town shall give written notice of the time and place of such hearing, sent by registered mail to the applicant and to the owners of property contiguous to or opposite the property affected.

## **§ 2.2.4 Administrative Adjustments**

### **A. By Authority of the Zoning Administrator**

The Zoning Administrator is authorized to make certain administrative adjustments that are in harmony with the general purpose and intent of this Ordinance, in the specific instances set forth herein, where the Zoning Administrator makes findings of fact in accordance with the standards prescribed and finds that there are practical difficulties in carrying out these regulations.

### **B. Procedures**

1. All applications for administrative adjustments shall be filed with the Zoning Administrator on a form provided by the Town.
2. The Zoning Administrator is authorized to approve administrative adjustments, after having determined that the submission is complete and finding that the request meets the requirements for granting an administrative adjustment.
3. Within fifteen days, the Zoning Administrator shall decide to: (1) approve the application, (2) approve the application subject to specific conditions; or (3) deny the application. The Zoning Administrator's decision shall be based on written findings of fact and may impose such conditions or restrictions upon the premises as may be necessary to comply with the standards and purposes established in this Ordinance.
4. The Zoning Administrator shall transmit a copy of the decision to the applicant and all other persons previously receiving notice of the application.

### **C. Permitted Administrative Adjustments**

Administrative adjustments may be granted only for the following:

1. Setbacks. To permit setbacks of up to ten percent less than required by applicable regulations.
2. Lot Coverage. To permit lot coverage of up to ten percent more than required by applicable regulations, except within the Critical Area.
3. Building Height. To permit a building height of up to five percent more than required by applicable regulations.
4. Signs. As provided in §6.5.9 of this Ordinance.

**D. Adjustments for Non-Conforming Lots Prohibited**

The Zoning Administrator may not approve administrative adjustments when the minimum lot width and area requirements for the property are not met.

**E. Review Criteria and Findings**

The Zoning Administrator shall not grant an administrative adjustment unless he/she makes findings based upon the evidence presented in each specific case that:

1. Practical Difficulties. The particular physical surroundings shape or topographical conditions of the subject property result in practical difficulties for the owner, which have not been created by any persons having an interest in the property.
2. Unique Conditions. The conditions upon which an application for an adjustment is based are unique to the subject property and are not applicable, generally, to other property within the same zoning classification.
3. Public Safety and Welfare. The granting of the adjustment will not be detrimental to the public safety or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

**F. Expiration of Approval**

1. No decision granting an administrative adjustment shall be valid for a period longer than one year from the date of the decision, unless the building permit is obtained within that period and the erection or alteration of a building is started or the use is commenced within that period.
2. The Zoning Administrator may, upon a showing of good cause, grant one six month extension of an administrative adjustment, provided that a written application for extension is filed while the decision is still valid.

**§ 2.2.5 Variances**

**A. By Authority of the Board of Appeals**

A property owner may apply to the Board of Appeals for a variance from the strict application of the terms of this Ordinance in order to avoid unwarranted hardship to the applicant, provided however that this shall be narrowly construed and applied by the Board in order to avoid undermining the purpose, integrity, intent and generally uniform application of this Ordinance

**B. Procedures**

Applications for a variance shall be submitted to the Zoning Administrator and shall include written statements addressing the following:

1. The specific provisions from which a variance is sought.
2. The nature and extent of the variance sought.
3. The special conditions of the property which would make a variance necessary.
4. A statement indicating why the variance should be granted.
5. The description of the alleged hardship that is caused by the physical surroundings, shape or topographical conditions of the subject property.

**C. Public Hearing Required**

No variance shall be authorized by the Board until a public hearing has been held on it.

**D. Burden of Proof**

The applicant for a Variance shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact that are to be determined by the Board of Appeals.

**E. Decision on Variances, Standards**

The Board of Appeals shall not grant a variance unless it makes findings of fact in writing based upon the evidence presented to it in each specific case that each of the following standards are met:

1. Because of the particular physical surroundings, shape or topographical conditions of the subject property, a particular hardship to the owner would result as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out. The alleged hardship shall relate to the land not to personal circumstances.

2. The conditions upon which a petition for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification.
3. The alleged hardship has not been created by the present owner or any previous owners of the property.
4. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
5. The variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public streets, increase the danger of fire, endanger the public safety, or alter the essential character of the neighborhood or district in which the property is located.
6. Within the intent and purpose of this Ordinance, the variance, if granted, is the minimum variance necessary to afford relief.
7. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and will be in harmony with the general spirit and intent of the Critical Area Law and the Critical Area Program.
8. No non-conforming use of neighboring lands, structures, or buildings in the same zone, and no permitted use of lands, structures, or buildings in other zones shall be considered grounds for the issuance of a variance.

**F. Conditions and Restrictions**

1. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.
2. In granting a variance, the Board may impose such reasonable conditions as will ensure that the use of the property will be compatible as practical with surrounding properties.

**G. Prohibited Variance**

Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the zone involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said zone.

#### **H. Property in the Critical Area**

If the variance concerns property in the Critical Area:

1. A copy of the application for a variance will be provided to the Critical Area Commission by the Board of Appeals in a timely manner, but no fewer than 14 calendar days prior to the Board's hearing on the matter.
2. The Board will promptly forward a copy of its decision to the Critical Area Commission.

#### **I. Expiration of Approval**

1. No decision granting a variance shall be valid for a period longer than one year from the date of the decision, unless the building permit is obtained within that period and the erection or alteration of a building is started or the use is commenced within that period.
2. The Zoning Administrator may, upon a showing of good cause, grant one six month extension of a variance, provided that a written application for extension is filed while the decision is still valid.

### **§ 2.2.6 Appeals**

#### **A. Initiation**

Any person or agency aggrieved or affected by an action or decision of the Zoning Administrator may appeal such action or decision to the Board of Appeals.

#### **B. Timing for Appeal**

An appeal must be taken within a reasonable time of the decision not to exceed 30 days.

#### **C. Processing and Public Hearing Requirements**

1. An appeal shall be filed with the Zoning Administrator and the Board of Appeals, specifying the grounds thereof. The Zoning Administrator shall forthwith transmit all papers constituting the record upon which the decision or action appealed was taken.
2. The Board of Appeals shall process all notices of appeal in accordance with the provisions of §2.3.1 of this Ordinance.

3. The Board shall decide the appeal within 30 days of closing its hearing on the appeal.

**D. Scope of Decision of the Board**

The Board may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have powers of the Zoning Administrator from whom the appeal is taken.

**E. Stay of Proceedings**

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals after the notice of Appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court on application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

## **§ 2.2.7 Special Exceptions**

**A. Purpose and Intent**

There are certain uses, which by their nature or design can have an undue impact upon or be incompatible with other uses of land in the same zoning district. These uses may be allowed to locate within given designated zoning districts under the controls, limitations and regulations of a special exception.

**B. Authorization**

In consideration of an application filed with the Zoning Administrator, the Board of Appeals may authorize the establishment of a special exception listed in a particular district in Table 1 in Article 4 of this Ordinance.

**C. Status of Special Exception Uses**

1. Once a special exception has been approved, any site plan, subdivision plat, building permit, or zoning and occupancy permit hereafter submitted for the development or use of the property in accordance with the special exception shall conform with the approved special exception and no development or use shall be approved by the Zoning Administrator in the absence of such conformance.

2. Once established, the use shall be conducted in strict accordance with any condition or restriction imposed by the Board of Appeals and all other requirements of this Ordinance. No use shall be enlarged, expanded, increased in intensity or relocated and no condition of the special exception or a new special exception shall be modified unless an application is made and approved for an amendment to the special exception or a new special exception is approved.
3. Once a special exception use is approved, the use shall not be considered a non-conforming use, but shall be, without further action, considered a conforming one

#### **D. Standards**

The Board of Appeals shall grant a special exception only if it finds, from a preponderance of evidence of record, that any proposed use submitted for a special exception will meet all of the following general standards as well as any specific standards or conditions listed for the proposed use in §4.2.3.

1. The establishment, maintenance and operation of the special exception will not be detrimental to or endanger the public health, safety, or general welfare.
2. The special exception shall be such that it will be harmonious in character as well as appropriate in appearance with and will not be injurious to the use and enjoyment of other property in the neighborhood for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding properties for the uses permitted in the district.
4. Adequate utilities, public water and sewer facilities, access roads, drainage and all necessary facilities have been or are being provided.
5. The special exception shall be such that pedestrian and vehicle traffic associated with such use will not be hazardous to or unduly conflict with the existing and anticipated traffic in the neighborhood.
6. The establishment, maintenance and operation of the special exception are consistent with the Comprehensive Plan.

#### **E. Burden of Proof**

The applicant for a special exception shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact that are to be determined by the Board of Appeals.



**F. Conditions and Restrictions**

The Board of Appeals, in approving a special exception, may impose such conditions and restrictions upon the proposed use, as it may deem necessary in the public interest to secure compliance with the provisions of this Ordinance and to promote implementation of the Comprehensive Plan.

**G. Application Procedure**

1. The Board shall not grant a special exception unless and until a written application is submitted indicating the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested.
2. Applications for a special exception shall be submitted to the Zoning Administrator. The application shall be completed and shall be accompanied by information which will be necessary to evaluate a given proposed category or use. The Zoning Administrator, upon receipt of a properly completed and documented application, shall refer the application along with pertinent evaluation material to the Board.
3. The Board of Appeals shall not grant a special exception unless and until the Planning Commission has reviewed the application and has first made a favorable recommendation to the Board.
4. An application for a special exception may be made by a property owner, lessee or contract purchaser. A lessee or contract purchaser must file with the application, a copy of the contract or some form of written statement, which indicates endorsement of the application by the property owner.

**H. Processing and Public Hearing Requirement**

The Board of Appeals shall process all applications for special exception in accordance with the provisions and public hearing requirements provided in §2.3.1 of this Ordinance.

**I. Termination or Revocation**

1. Unless a time limit is specified for a special exception, the same shall be valid for an indefinite period of time, except that, if the use or activity should cease for any reason for a continuous period of one year, the special exception shall automatically terminate without notice. The approval of a new special exception shall be required prior to any subsequent reinstatement of the use.
2. A special exception shall be revocable on the order of the Board of Appeals at any time because of the failure of the owner or operator of the use covered by the exception to observe all requirements of law with respect to the maintenance and conduct of the use and all conditions in connection with the exception that were designated in issuing the same.

Before revoking any special exception, however, the Board of Appeals shall give the holder thereof at least ten days written notice of violation. If within ten days, the exception holder so requests, the Board of Appeals shall hold a hearing on the revocation of the exception, giving the applicant advance written notice of the hearing date.

3. The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations.

## **§ 2.3 Hearings of the Board of Appeals**

### **§ 2.3.1 Hearings of the Board of Appeals**

#### **A. Hearing Required**

Before making a decision on an appeal or an application for a variance, special exception, a petition to revoke a special exception, the Board of Appeals shall hold a hearing.

#### **B. Format of Hearing**

1. The hearing shall be open to the public and all interested persons shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
2. The Board of Appeals may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
3. The Board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. The Board shall announce the date and hour of continuance of such hearing while in session.

### **§ 2.3.2 Notice of Hearing**

#### **A. Public Notice to be Given**

Public notice shall be given at least 15 days in advance of the hearing in the following ways:

1. Notice shall be posted on the subject property and at the Town Office,
2. Notice shall be published in a newspaper of general circulation in the Town, and
3. Written notice shall be provided to the adjoining property owners.

**B. Notice to Interested Parties**

Verifiable notice shall be given to the appellant or applicant and any other person who makes a written request for such notice at least 15 day in advance of the hearing.

**C. Contents of Notice**

The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

**§ 2.3.3 Evidence and Record of Hearing**

**A. Sworn Testimony**

All persons who intend to present evidence to the board, rather than arguments only, shall be sworn.

**B. Evidence**

All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

**C. Record of Hearing**

1. An audio recording and recording by legal stenographer shall be made of all hearings and such recordings shall be kept for at least two years. Accurate minutes shall also be kept.
2. Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the Town for at least two years.

#### **§ 2.3.4      Modification of Application at Hearing**

##### **A.      Applicant May Modify Application**

In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Appeals, the applicant may agree to modify his/her application, including the plans and specifications submitted.

##### **B.      Board Approval of Modified Application**

Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board may approve the application with the stipulation that a permit will not be issued until plans reflecting the agreed upon changes are submitted to the Zoning Administrator for review.

#### **§ 2.3.5      Written Decision**

##### **A.      Interested Parties to be provided Written Decision**

Any decision made by the Board of Appeals regarding an appeal or variance or issuance or revocation of a special exception shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.

##### **B.      Findings and Conclusions**

In addition to a statement of the Board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the Board's findings and conclusions, as well as supporting reasons or facts.

##### **C.      Appeal of Board Decision**

Recourse from the decisions of the Board of Appeals shall be to the courts as provided by Maryland law.

## § 2.4 Non-conforming Lots, Structures, and Uses

### § 2.4.1 Intent of Regulations

#### A. Purpose and Intent

1. It is the intent of this Ordinance not to encourage the survival of non-conformities. Such uses are incompatible with permitted uses in the zoning districts involved.
2. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.

#### B. Extension of Non-Conformities Prohibited

A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises, or by the addition of other uses of a nature which would be prohibited in the zone involved.

#### C. Impact on Ongoing Lawful Construction

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction, defined in Article 9 of this Ordinance, was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on.

## **§ 2.4.2 Non-Conforming Lots Structures, and Uses**

### **A. Non-Conforming Lots of Record**

1. In any zone in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area, or width, or both, that are generally applicable in the zone, provided that yard dimensions shall conform to the regulations for the zone in which such lot is located. Any variance of yard requirements shall be obtained only through action of the Board of Appeals.
2. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold which does not meet lot width or area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

### **B. Non-Conforming Uses of Land**

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
3. If any such non-conforming use of land ceases for any reason for a period of more than 90 days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the zone in which such land is located.

**C. Non-conforming Structures**

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued subject to §2.4.2E, so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way that increases its non-conformity.
2. Should such structure be destroyed by any means to an extent of more than 25 percent of its replacement cost at time of destruction as determined by the Zoning Administrator, it shall not be reconstructed as a non-conforming use.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.

**D. Non-Conforming Uses of Structures**

If a lawful use of a structure or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the zoning district under the terms of this Ordinance, the lawful use may be continued subject to §2.4.2E of this Ordinance, so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the zone in which it is located, except dwellings, shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located.
2. Any non-conforming use may be extended throughout any parts of a building that were manifestly arranged or designed for use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use, provided that the Zoning Administrator shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing non-conforming use. In permitting such change, the Zoning Administrator may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.
4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone in which such structure is located, and the non-conforming use may not thereafter be resumed.



5. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for nine consecutive months or for 15 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the zone in which it is located.
6. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structures shall eliminate the non-conforming status of the land.

**E. Repairs and Maintenance of Non-Conforming Structure**

1. On any structure devoted in whole or in part to any non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent of the current replacement value of the structure, provided that the cubic content of the building, as it existed at the time of passage or amendment of this Ordinance shall not be increased.
2. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

## **§ 2.5 Enforcement of this Ordinance**

### **§ 2.5.1 Required Compliance with Ordinance**

**A. Permits in Conflict are Null and Void**

Any permit or license, issued in conflict with the provisions of this Ordinance, shall be null and void.

**B. Zoning Administrator to Take Action on Violations**

If the Zoning Administrator finds that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of

additions, alterations, or structural changes hereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

**C. Questions of Interpretation**

All questions of interpretation and enforcement shall be first presented to the Zoning Administrator and such questions shall be presented to the Board of Appeals only on appeal from the decision of the Zoning Administrator.

**§ 2.5.2 Penalties for Violation**

**A. Violation Constitutes a Municipal Infraction**

1. A violation of any of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a municipal infraction, subject to a fine of one hundred dollars (\$100) for the first violation. The fine for each subsequent violation shall be two hundred dollars (\$200). Each day such violation continues shall be considered a separate offense.
2. The owner or tenant of any building, structure, premises, or part thereof, and any architect, engineer, builder, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

**B. Provisions Concerning Unlawful Demolition**

In addition to the penalties and remedies provided in §2.5.2(A) of this Ordinance, any site or structure demolished without proper permit in violation of this Ordinance shall be ineligible for any use and/or zoning certificates and/or building permits for the erection or rebuilding of the building or structure for a period of five years from the date of such demolition. Upon expiration of the five-year period the owner may make application for a zoning permit and/or building permit in accordance with the procedures set forth in this Ordinance.

**C. Other Lawful Action as Necessary**

Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation. The Town may enforce this Ordinance by civil action for declaratory judgment and/or injunction, in addition or as an alternative to citing the violator for a municipal infraction. In the case of a civil action for declaratory judgment and/or injunction, the Town may recover its legal fees and court costs from the violator.

**§ 2.5.3 Schedule of Fees, Charges, and Expenses**

**A. Schedule of Fees**

1. The Mayor and Town Council shall establish a schedule of fees, fees-in-lieu, charges, and expenses, and a collection procedure, for zoning permits, use and occupancy permits, appeals, variances, special exceptions, amendments, site plan and subdivision plat reviews, building and demolition permits, annexation petitions, and other matters pertaining to this Ordinance.
2. The schedule of fees shall be posted in the offices of the Zoning Administrator and may be altered or amended only by the Mayor and Town Council, upon recommendation of the Planning Commission.

**B. No Action until Fees Paid**

No certificate, permit, special exception, or variance shall be issued unless or until such costs, charges, fees, or expenses, have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals unless or until charges and fees have been paid in full.

## Article 3

### Development Plan Approvals

*This Article provides the procedures and requirements for two major types of plan approvals: site plans, and subdivision plans. It also provide standards on impact studies which the Planning Commission may require and procedures on the review of Annexation Plans.*

## **§ 3.1 Site Plan Review and Approval**

### **§ 3.1.1 Uses Requiring Site Plans**

#### **A. Purpose**

Site plans are required to assure good arrangement and appearance of new development; ensure harmony with existing structures; assure consistency with the Town's building and site design standards, and the Comprehensive Plan; to provide an understanding of the impacts of proposed uses and development on public facilities and services and ensure the availability and adequacy of the same; and to otherwise meet the purposes of this Ordinance.

#### **B. Category 1 Site Plans**

Site plans for the following major uses including new construction or the relocation of a building shall be subject to review by the Planning Commission and shall be called Category 1 Site Plans:

1. All commercial or industrial buildings, complexes, and uses.
2. All institutional buildings and uses including, educational, governmental, recreational and religious.
3. All new construction or external alterations of buildings in a Historic District.
4. All multiple-family dwellings, buildings, and complexes, and townhouses.
5. All mixed use buildings and sites.
6. Temporary, carnival, festival and related uses when determined by the Zoning Administrator to have impact that extend beyond the property of the principal use.

#### **C. Category 2 Site Plans**

Site plans for the following uses which have a minor impact shall be subject to review by the Zoning Administrator and approval by the Planning Commission unless such authority is expressly delegated by the Planning Commission to the Zoning Administrator in the Commission's written procedures as provided in §3.1.2B and shall be called Category 2 Site Plans:

1. Single-family detached dwellings, bed and breakfast facilities, accessory uses, and rehabilitation projects.
2. Additions to buildings, where review is deemed necessary by the Zoning Administrator.
3. Where an existing use is changing to another approved use in any zoning district.
4. Decks, porches, and other similar structures.

### **§ 3.1.2 Site Plan Processing Procedures**

#### **A. Procedures by Type of Plan**

Site plan processing procedures for Category 1 site plans are set forth in §3.1.3. Administrative review procedures for Category 2 site plans and other plans are set forth in §3.1.7.

#### **B. Planning Commission to Establish Its Procedures**

1. The Planning Commission shall establish its written procedures, checklists and application forms necessary to ensure the timely and proper review and processing of site plans and other plans consistent with this Ordinance. The Commission shall establish the number and acceptable format for the various types of plans submitted for review under this Ordinance.
2. In establishing its procedures, the Planning Commission may delegate to the Zoning Administrator project review and approval authority for any or all of the projects eligible for Administrative Review Procedures of Section §3.1.7.
3. Procedures and application forms shall be made available at the offices of the Zoning Administrator.
4. The Planning Commission may modify such procedures, checklists, and application forms from time to time.
5. The Planning Commission may prescribe specific conditions on its approval determined necessary to minimize effects of use on neighboring properties given identification of concerns specific to a particular site.

### **§ 3.1.3 Category 1 Site Plan Processing Procedures**

There are three primary stages in the Category 1 site plan process: concept, preliminary, and final.

**A. Concept Stage**

The purpose of the concept stage is to provide the Planning Commission with the opportunity to informally review a development proposal prior to the substantial commitment of time and expense on the part of the applicant in preparing a site plan.

1. No application for Category 1 site plan approval shall be accepted by the Town until:
  - a. A concept site plan package as provided for in §3.1.4 is submitted for review by the Zoning Administrator.
  - b. Any required concept plan review fees have been paid.
  - c. The steps for concept site plan review as established by the Planning Commission are completed which shall include a application to the Cecil County Department of Public Works for review
2. The Zoning Administrator shall review the concept site plan package for completeness and shall refer it to the appropriate individuals or agencies for review, comment, and/or approval prior to submitting it to the Planning Commission.
3. The applicant for site plan approval shall attend a meeting with the Zoning Administrator prior to submitting the concept plan to the Planning Commission. Consistent with the purpose of site plan review, the purpose of the meeting shall be to provide the Town with an opportunity to address issues or concerns with the concept plan, identify any impact studies that may be required, and provide direction to the applicant on the scope of such studies.
4. The Planning Commission shall hold one meeting on the concept plan to receive an informational briefing on the plan and the anticipated issues and impacts related thereto. The Planning Commission shall take no action to approve or disapprove a concept plan. Should the Planning Commission determine that the development project represented by the concept plan may have substantial impact on the physical, economic, or social environment; the Planning Commission may hold more than one meeting on the concept plan.
5. For all Category 1 Site Plans submitted for review, the Zoning Administrator shall:
  - a. Submit verifiable notice to the applicant at least seven days before the day of the meeting to discuss the concept site plan, and
  - b. Submit verifiable notice to all owners of property adjoining and immediately across the street from the subject property. Such written notice shall state the date, time, place, and subject matter of the meeting to discuss the concept site plan, and the name of the applicant. Such notice shall be sent not less than seven days before the day of the meeting.

- c. The Planning Commission may provide for expanded public notification of its deliberations of site plans at its discretion.
6. The review and approval of stormwater management plans by the Cecil County Department of Public Works is required prior to final plan review. The applicant for the Town's site plan approval shall be responsible for coordinating the County's review and approval of stormwater management plans.

**B. Preliminary Stage**

The purpose of the preliminary stage is to provide the Planning Commission with the information necessary for it to take action to approve or disapprove a site plan. The Planning Commission shall review and take action to approve or deny all Category 1 site plans. Prior to acceptance of a Preliminary Site Plan for review, the applicant shall provide the Zoning Administrator with the formal plan review comments from Cecil County.

1. Preliminary site plans meeting the submittal requirements of §3.1.5 shall be submitted to the Zoning Administrator who shall review the plans for compliance with these regulations and the requirements for preliminary site plans and shall transmit said plans to the Planning Commission with his or her comments for review.
2. The Planning Commission shall examine the proposed development with respect to the traffic and circulation patterns and safety (internal and external), utilities, drainage, community facilities (existing or proposed), surrounding development (existing or future), the preservation of trees and historic sites, protection of natural environmental features and processes, provision for open space, street lighting, recreational needs, safety of residents and neighbors, landscaping, architecture, compatibility with building, site and design standards, and, in general, with the objective of ensuring a durable, harmonious, and appropriate use of the land.
3. The Planning Commission shall take action to approve, approve with conditions, disapprove, or table pending further investigation and/or receipt of certain additional information, but shall take no action until the following has occurred:
  - a. The Zoning Administrator has reviewed the site plan and determined that it is complete and submitted its findings in writing to the Planning Commission.
  - b. The Applicant has submitted any impact studies that may be required by §3.3 of this Ordinance and has obtained Town approval of such required studies.
  - c. Comments on the site plan from appropriate agencies and individuals have been requested and sufficient time has been provided for such agencies and individuals to provide comments.
  - d. The applicant has paid all appropriate preliminary site plan review and application fees to the Town.



4. No public hearing shall be required, but may be called at the option of the Planning Commission.

**C. Final Stage**

The purpose of the final stage is to ensure that all submittal requirements of final site plans as set forth in §3.1.6 and that any required design and construction standards are specifically and accurately addressed, to ensure that all conditions of the Planning Commission's approval are specifically and accurately met, and to finalize any and all necessary formal agreements related to the project which may include public works agreements, and easement agreements, among others.

1. Final site plan approval shall be granted prior to the commencement of any development activity.
2. Final site plans shall be submitted to the Zoning Administrator who shall review the plans for compliance with these regulations and the conditions, if any, of Planning Commission approval. If specified conditions or stipulations are met in revised plans, the Zoning Administrator shall approve issuance of building permits in accord with the revision without returning the plans for further Planning Commission review.
3. When all review and approvals have been completed and documentation of such approvals provided to the Zoning Administrator, he/she and the Chairperson of the Planning Commission shall each sign the site plan to indicate completion of review and approval by the Town and to certify that conditions, if any, of site plan approval have been met. The applicant shall submit all local, county, state and/or federal approvals as may be required. No permit shall be issued until this approval has been given.
4. When a public works agreement is required, final approval shall not be certified until that public works agreement has been executed by the applicant and the Town.

**D. Project Built to Plan for Occupancy Permit**

1. The Zoning Administrator shall assure that the project is completed in conformance with the approved site plan before certifying the same. Upon such certification, Cecil County will issue a use and occupancy permit.
2. Before issuance of an occupancy permit, either all the work must be completed or in the Town's discretion, all remaining work must be bonded.

### **§ 3.1.4 Contents of Concept Plan Submittals**

The concept site plan package shall meet the requirements as to content and organization as may be established by the Planning Commission and at minimum shall include the following:

**A. Project Concept Plan**

A scaled drawing showing the proposed development on a survey of the project boundaries. It shall show the project layout, proposed and existing land uses, open spaces, circulation routes, and points of access to the adjacent street network, and main design features. If phasing is proposed, a master plan for entire project shall be shown. Drawings shall be 24 inches × 36 inches. Scale shall be no less detailed than 1 inch = 100 feet and shall show adjacent streets and adjacent property owners. A vicinity map at a scale no less detailed than 1 inch = 1,000 feet shall be included which shows the location with respect to neighborhood streets. Typical architectural elevations shall be included.

**B. Project Area Schematic**

A scaled drawing or GIS aerial photograph showing the main features of the project in relationship within the neighborhood. Included in the drawing shall be existing infrastructure within at least 1,000 feet, including streets, intersections, water, sanitary sewer, and storm drains. Scale shall be no less detailed than 1 foot = 400 feet for large projects and 1 inch = 200 feet for small projects. Drawings shall be no larger than 24 inches x 36 inches.

**C. Site Investigation Report**

A report providing information and data on the physical and environmental characteristics of the site, the proposed uses and utility demands, anticipated impacts of the proposed development on neighboring properties, area infrastructure and services, recreational resources and other public facilities, compliance with the Town Comprehensive Plan, and the proposed architectural and design character. The Site Investigation Report shall follow the format established by the Planning Commission as may be amended from time to time and shall address each of the following.

1. Site Data Summary Chart: Tax map and parcel number, Planning Commission case numbers and prior approvals, Board of Appeals case numbers and prior approvals, zoning classification (including Critical Area designation if applicable), proposed zoning, allowable density, proposed density, total site area, flood zone, wetlands (State and Federal), number of proposed lots, number of proposed units and types, availability of utilities, zoning set back requirements, zoning lot size requirements, maximum building height allowed by zoning, open space required by zoning, and proposed open space, use of open space, parking required by zoning and proposed parking. Provide breakdown for each phase or land use as appropriate.
2. Land Use Overview: Provide narrative of existing site conditions and provide legible copy of Cecil County soil map with outline of property sketched on it. Describe existing

context and highlight any issues regarding marginal site conditions including topography, hydric soils, existing drainage patterns, standing water, culverts, ditches, wetlands or sensitive areas.

3. **Traffic Access Overview:** Provide narrative of existing roads, lanes, width, material, condition, curb, sidewalk, and offsite improvements needed to accommodate the project. If project is known to require an SHA traffic study, provide summary information and study schedule.
4. **Utility Demands and Services Overview:** Provide narrative on conditions and capacity of sanitary sewer, public water, gas, and electric, and describe any offsite improvements needed.
5. **Storm Water Management Overview:** Provide narrative on types of best management practices to be used, proposed conveyance and management techniques and a summary of any offsite improvements needed.
6. **Construction Phasing Overview:** Provide narrative of time of construction and estimate the number of anticipated building permits per year.
7. **Provide narrative of recreational needs and opportunities if the project is residential.**

### **§ 3.1.5 Contents of Preliminary Site Plan**

The applicant is responsible for preparing a preliminary site plan. As directed by Planning Commission guidance, the preliminary site plan shall be submitted as a multiple sheet document with drawings on sheets no larger than 24 inches by 36 inches and at scales no less detailed than 1 inch equal to 100 feet.

#### **A. Order of Plan Sheets**

Preliminary site plans submittals shall adhere to the order of plan sheets established by the Planning Commission with any additional required details and plan drawings inserted into the order prescribed by the Town.

#### **B. Contents**

The preliminary site plan shall show the North point, scale, date, and the following:

1. The seal and signature of a Registered Maryland Land Surveyor and/or the seal and signature of licensed Engineer or Landscape Architect as appropriate.

2. Revision block on each sheet to accurately disclose any drawing revisions made after the first submittal for preliminary plan review.
3. A key and overview plan for multi-stage projects.
4. Geographical location, showing existing zoning district boundaries.
5. Existing zoning classification on the site and adjacent sites.
6. Topographic contours at a minimum of one-half-foot intervals unless waived by the Zoning Administrator as clearly unnecessary to review the project or proposal.
7. The location and nature of all proposed construction, excavation or grading, including but not limited to building, streets and utilities.
8. A grading plan (horizontal) conforming to requirements of Cecil County standards.
9. A Utility Plan (horizontal). It shall show all existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades, and the location of all connections to the utility system.
10. Where deemed appropriate and necessary by the County Department of Public Works, provisions for the adequate management of natural and storm water.
11. Where deemed appropriate and necessary by the County Department of Public Works, provisions for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading, and construction.
12. A landscape and lighting plan including location and details of signage.
13. A parking plan, showing all off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required by this Ordinance.
14. Architectural elevations in color including at least one presentation board of no smaller than 24 inches by 36 inches.
15. Preliminary street profiles and cross sections for streets and curbing. All existing and proposed streets and easements including widths.
16. Approximate location of point of ingress and egress to existing public streets and highways; if ingress or egress is onto a state maintained roadway, an accompanying letter from the Maryland State Highway Administration indicating preliminary approval shall be required.

17. All existing easements of any kind. If easements are to be granted, a separate and preliminary easement plat shall be provided.
18. The number of construction phases proposed, if any, with the site plan showing the approximate boundaries of each phase, and the proposed completion date of each phase.
19. A tabulation of total number of acres in the project gross or net as required in the district regulations, and the percentage thereof proposed to be devoted to the several dwelling types, commercial uses, other nonresidential uses, off-street parking, streets, parks, schools and other reservations.
20. Number of dwelling units to be included by type of housing: apartments of three stories and under; apartments over three stories; single-family dwellings; townhouses; and two-family dwellings. The overall project density in dwelling units per acre, gross or net as required by district regulations.
21. Proposed buildings and structures with dimensions, setbacks and heights designated including floor areas of all non-residential buildings and the proposed use of each.
22. Approximate location and size of nonresidential areas, if any (parking areas, loading areas or other).
23. Approximate location and size of recreational areas and other open spaces.
24. Existing vegetation, proposed removal of vegetation, and proposed replacement of vegetation.
25. Location, type size and height of fencing, retaining walls, and screen planting.
26. Location, orientation, design, and size of signs, if any.
27. The Planning Commission may establish additional requirements for preliminary site plans, and may waive, a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper decision on the project.

### **§ 3.1.6 Contents of Final Site Plan**

The applicant is responsible for preparing the final site plan. The final site plan shall comply with all existing laws, regulations, and ordinances governing the approval of site plans and provide sufficiently accurate dimensions and construction specifications to provide the data necessary for the issuance of building permits.

**A. Final Plan Shall be as Required**

In addition to meeting the submittal requirements of a preliminary site plan, final site plan shall meet all specific plan submittal requirements of the Town and Cecil County as appropriate.

**B. Final Plan Shall Comply with Conditions of Approval**

Submittals shall demonstrate compliance with any conditions of site plan approval and shall include all necessary approvals from any local, county, state, and federal agency.

**C. Adding or Waiving Submittal Requirements**

As a condition of site plan approval, the Planning Commission may establish additional submittal requirements for a final site plan, and may waive, a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper decision on the project.

**D. Order of Plan Sheets**

Final site plans submittals shall adhere to the order of plan sheets established by the Planning Commission with any additional required details and plan drawings inserted into the order prescribed by the Town.

### **§ 3.1.7 Administrative Plan Review Procedures**

Administrative plan review is for projects with relatively minor impact, which require less information and can be reviewed and approved in a shorter time. In administrative plan review, the Planning Commission is the approving authority unless it has delegated such authority to the Zoning Administrator through establishment of its project review and approval procedures. Administrative plan review is for Category 2 site plans as provided in §3.1.1C, minor subdivisions, lot line adjustments, and conversions of existing deeded lots to parcels.

**A. Acceptance of Plan for Administrative Review**

No application for Administrative review shall be accepted by the Town until:

1. A plan in compliance with in Section §3.1.8 is submitted for review to the Zoning Administrator.
2. Any required plan review fees have been paid.

**B. Action by Approving Authority**

Plans requiring administrative review shall be submitted to the Zoning Administrator who shall review the plans for compliance with these regulations.

1. If the Approving Authority finds that such plans meet the intent of this Ordinance and are consistent with the Comprehensive Plan, then he / she shall affix his/her signature on the plan(s) certifying approval.
2. If the Approving Authority finds that the plan does not meet the intent of this Ordinance and/or is not consistent with the Comprehensive Plan and the Town's adopted building and site design standards, then he / she shall deny approval and transmit that decision in writing to the applicant.
3. The Approving Authority shall not take action to approve or deny a plan requiring administrative review until the following has occurred:
  - a. The Zoning Administrator has reviewed the plan and determined that it is complete.
  - b. The Applicant has submitted any impact studies that may be required by §3.3 of this Ordinance and has obtained Town approval of such required studies.
  - c. Comments on the plan from appropriate agencies and individuals have been requested and sufficient time has been provided for such agencies and individuals to provide comments.
  - d. The applicant has submitted all local, county, state and/or federal approvals as may be required.

**C. Appeals**

Any person aggrieved by an administrative plan review decision made by the Zoning Administrator and desiring to appeal such decision must appeal to the Board of Appeals per §2.2.6 of this Ordinance.

### **§ 3.1.8      Contents of Plans for Administrative Review**

Plans for administrative review shall comply with all existing laws, regulations, and ordinances governing development approval and provide sufficiently accurate dimensions and construction specifications to provide the data necessary for the issuance of a building permit. The plan shall show the north point, a scale not to exceed 1 inch = 40 feet, the date, and the following:

#### **A.      Professional Seal May be Required**

As may be required by the Zoning Administrator, the seal and signature of a Registered Maryland Land Surveyor and/or the seal and signature of licensed Engineer or Landscape Architect.

#### **B.      Contents**

The plan shall show the north point, a scale not to exceed 1 inch = 40 feet, the date and the following:

1.      All existing property lines with dimensions.
2.      If converting an existing deeded lot to a new parcel, old lot lines with dimensions and numbers shall be shown.
3.      If site plan includes a proposed minor subdivision or lot line adjustment, proposed lot lines with dimensions shall be shown.
4.      All setbacks lines.
5.      All existing structures (dimensions, total square footage, distance from property lines).
6.      Zoning classification (property and adjoining properties).
7.      Proposed signs, if applicable.
8.      Proposed building elevations of all sides visible from the public right-of-way, if applicable.
9.      Proposed landscaping if applicable.
10.    All existing and proposed driveway/parking spaces/interior roadway areas and dimensions, if applicable.
11.    For a change of use and/or addition, interior layout with dimensions to include existing and proposed uses.
12.    Other information as may be required by the Zoning Administrator or Town Engineer to adequately review the plan.



13. Sanitary sewer, public water, and storm drain locations, including the location of all lines and ties-ins.
14. All existing and proposed easements and rights-of-way, if applicable.

### **§ 3.1.9 Amendment of Approved Site Plan**

Amendments to an approved site plan shall be submitted to the Zoning Administrator with an appropriate application. The Zoning Administrator shall determine at that time the appropriate fee amount and payment schedule, if any, which shall apply.

#### **A. Major or Minor Amendment**

The Zoning Administrator shall determine if the proposed amendment is major or minor or if it instead constitutes a substantive change. Upon a finding that a proposed amendment constitutes a substantive change rather than an amendment as provided below, the Zoning Administrator shall return the application to the applicant.

1. A minor amendment is a modification that does not change the intensity of the use or alter the traffic pattern.
2. A major amendment is a modification that modestly changes the intensity of the use or alters the traffic pattern or the demand on area infrastructure or materially, but not substantively, changes the open space, building location, and building and/or site design.
3. Substantive changes to an approved site plan are not amendments under the terms of this Section and shall not be processed as such. An applicant who wishes to move forward with a substantive change to an approved site plan shall be required to prepare and submit a new site plan for review and approval. Substantive changes to an approved site plan include but are not limited to the following:
  - a. Proposals for a different type of housing or commercial development than contemplated in the original, approved site plan approval or in any comparable change which would materially impact the estimated public service costs or tax revenues associated with the approved development to the detriment of the Town.
  - b. Substantive changes to the pattern and location of buildings or layout of streets, access points, or utilities and infrastructure.
  - c. Any change which would materially detract from the quality of the natural environment, materially intensify the impact to area infrastructure, or materially detract from the economies of providing public services or facilities to the contemplated development.

4. The Planning Commission or Zoning Administrator is under no obligation to approve an amendment to an approved site plan. In reviewing said request, the Planning Commission or Zoning Administrator shall take into consideration changes to and the status of area land use development, infrastructure, and the Town's Comprehensive Plan which may have occurred between the time the site plan was approved and the request for an amendment.

**B. Major Amendment to Category 1 Site Plan**

If the site plan to be amended is a Category 1 Site Plan and the amendment is determined to be major, the applicant shall submit new drawings to the Zoning Administrator, who shall distribute the drawings to the appropriate agencies or individuals for comment. Obtaining agency approvals other than the Town shall be the responsibility of the applicant. The proposed amendment shall be approved or denied by the Planning Commission.

**C. Minor Amendment to Category 1 Site Plan**

If the site plan to be amended is a Category 1 Site Plan and the amendment is determined to be minor, the applicant shall indicate the change on the previously approved plan and submit the amended plan to the Zoning Administrator who may distribute the plan to the appropriate agencies or individuals for comment. The Zoning Administrator may approve or reject the amendment or at his/her discretion, transmit the amended plan to the Planning Commission for its review and decision.

**D. Amendment to Category 2 Site Plan**

The Zoning Administrator shall approve or reject any amendment to a Category 2 site plan unless it is found to be a substantive change under §3.1.9A3.

### **§ 3.1.10 Expiration of Approved Site Plan**

A site plan approval shall become null and void unless a building permit has been issued for the proposed development within two years from the date of the approval. The Planning Commission may for good cause grant a one-year extension for a Category 1 site plan upon consideration of the criteria set forth in §3.2.2A3 of this Ordinance. The Zoning Administrator may for good cause grant a one-year extension for a Category 2 site plan upon consideration of the criteria set forth in §3.2.2A3 of this Ordinance. The applicant must request an extension at least 30 days prior to the expiration date.

## **§ 3.2 Subdivision Review and Approval**

### **§ 3.2.1 Subdivision Review and Approval**

#### **A. Purpose**

Subdivisions plats prepared and approved in accordance with the provisions of this Ordinance, shall be required to assist in the review of applications for land subdivision and to assure compliance with all applicable requirements.

#### **B. Applicability**

No land in a subdivision shall be sold or offered for sale nor shall a building permit be issued for a structure thereon until a final plat of such subdivision has been recorded per this Ordinance and the improvements required in connection with such subdivision have either been constructed or guaranteed per this Ordinance.

#### **C. Major and Minor Subdivisions Administration**

1. Minor Subdivisions, lot line adjustments, and conversions of existing deeded lots to parcels shall be reviewed according to procedures set forth in §3.1.7 of this Ordinance.
2. Major Subdivisions shall be reviewed and approved according to the procedures set forth in Section §3.2.2 below.

### **§ 3.2.2 Subdivision Processing Procedures**

There shall be three stages in the review and approval of a major subdivision: concept, preliminary, and final plat.

#### **A. Concept Stage**

The purpose of the concept stage is to provide the Planning Commission with the opportunity to informally review a subdivision proposal prior to the substantial commitment of time and expense on the part of the applicant in preparing a preliminary plat.

1. No application for subdivision approval shall be accepted by the Town until:
  - a. A concept subdivision plat meeting the content submittal requirements of §3.1.4 of this Ordinance is submitted for review by the Town.

- b. Any required concept plat review fees have been paid.
  - c. The steps for concept subdivision plat review as established by the Planning Commission are completed.
- 2. Within 30 days of receiving a subdivision concept plat, the Zoning Administrator shall review the concept for completeness and inform the applicant and Planning Commission of his/her findings.
- 3. The Zoning Administrator shall refer the concept plat to the appropriate individuals or agencies for review and/or comment prior to submitting it to the Planning Commission.
- 4. The applicant shall attend a meeting with the Zoning Administrator prior to submitting the concept plat to the Planning Commission. The purpose of the meeting shall be to provide the Town with an opportunity to address issues or concerns, identify any impact studies that may be required, and provide direction to the applicant on the scope of such studies.
- 5. The Planning Commission shall hold at least one meeting on the concept plat to receive an informational briefing on the plat and the anticipated issues and impacts related thereto. The Planning Commission shall take no action to approve or deny a concept plat. Should the Planning Commission determine that the development project represented by the concept plat may have substantial impact on the physical, economic, or social environment the Planning Commission may hold more than one meeting on the concept plat.
- 6. For all major subdivision plats submitted for review, the Zoning Administrator shall:
  - a. Submit written notice to the applicant by first class mail, such to be postmarked at least seven days before the day of the Planning Commission meeting to discuss the concept site plan, and
  - b. Submit written notice to all owners of property adjoining and immediately across the street from the subject property. Such written notice shall state the date, time, place, and subject matter of the meeting to discuss the concept plat, and the name of the applicant. Such notice shall be sent by first class mail and be postmarked not less than seven days before the day of the meeting.
  - c. The Planning Commission may provide for expanded public notification of its deliberations of subdivision plans at its discretion.

## **B. Preliminary Stage**

The purpose of the preliminary subdivision review stage is to provide a basis for the Planning Commission to take formal approving action with respect to the proposed subdivision in order to minimize changes and revisions which might otherwise be necessary on the final subdivision

plan. The Planning Commission shall review and take action to approve, approve with conditions, or deny all preliminary subdivision plats.

1. Preliminary subdivision plats meeting the submittal requirements set forth in §3.1.5 of this Ordinance shall be submitted to the Zoning Administrator who shall review the plats for compliance with these regulations and the requirements for preliminary plats and shall transmit said plats to the Planning Commission with his or her comments for review. Applications found to be incomplete shall be returned to the applicant.
2. The Planning Commission shall examine the proposed subdivision with respect to the traffic and circulation patterns and safety (internal and external), utilities, stormwater management, community facilities (existing or proposed), surrounding development (existing or future), the preservation of trees and historic sites, protection of natural environmental features and processes, provision for open space, street lighting, recreational needs, safety of residents and neighbors, landscaping, architecture, compatibility with building site and design standards, and, in general, with the objective of ensuring a durable, harmonious, and appropriate use of the land and consistency with the Comprehensive Plan.
3. The Planning Commission shall take action to approve, approve with conditions, or deny approval, but shall take no action until the following has occurred:
  - a. The Zoning Administrator has reviewed the subdivision plat and determined that it is complete and submitted findings to that effect in writing to the Planning Commission.
  - b. The Applicant has submitted any impact studies that may be required and has obtained Town approval of such studies, where required.
  - c. Comments from appropriate agencies and individuals have been requested and sufficient time has been provided for such agencies and individuals to provide comments.
  - d. The applicant has paid all appropriate preliminary subdivision review and application fees to the Town.
4. No public hearing shall be required, but may be called at the option of the Planning Commission.
5. Planning Commission Action: The Planning Commission shall act for approval, conditional approval with conditions noted, postponement, or disapproval. Reasons for all actions shall be stated in the decision of the Planning Commission. The following actions shall have the meanings so stated:
  - a. Approval means that the developer is authorized to proceed with the preparation of a final plat. Preliminary plat approval grants an applicant one (1) year within which to submit a final plat.

- b. Conditional Approval means that applicant may proceed with a final plat, but only after the preliminary plat has been corrected to reflect all conditions placed on the plat by the action of the Planning Commission. Actual approval shall not be made until the Planning Commission finds that all such conditions have been satisfied.
- c. Postponement means Planning Commission action is delayed for definite reasons which the Planning Commission shall record in writing.
- d. Disapproval means disapproval of the plat. For any further action, the developer must file a new application meeting the submittal requirements along with the required filing fees.

### **C. Final Stage**

The final subdivision plan shall consist of a drawing intended for recordation, incorporating those changes or additions required by the Planning Commission in its approval of the Preliminary Subdivision Plat.

- 1. Final subdivision plats shall be submitted to the Zoning Administrator who shall review the plats for compliance with these regulations and the conditions, if any, of Planning Commission approval. If specified conditions or stipulations of the preliminary plat approval are not met in revised plans, the Zoning Administrator shall return the plat to the applicant.
- 2. When all review and approvals have been completed and documentation of such approvals provided to the Zoning Administrator, he or she and the Chairperson of the Planning Commission, shall each sign the final plat to indicate completion of review and approval by the Town and to certify that conditions, if any, of plat approval have been met and that the applicant has submitted all local, county, state and/or federal approvals as may be required. No permit shall be issued until this approval has been given.
- 3. When a public works agreement is required, the Zoning Administrator and Chairperson of the Planning Commission may not certify final plan approval until that public works agreement has been signed by the applicant and the Town.

## **§3.2.3 Expiration and Extension of Preliminary Plat Approval**

### **A. Grant of Extension**

- 1. A preliminary plat approval grants the applicant one year in which the applicant shall submit the final plat.

2. Before expiration of the approval, the Planning Commission may grant an extension for just cause, with extension periods no greater than one year at a time. The applicant shall request an extension at least 30 days prior to the deadline date for submittal of a final plat.
3. In connection with a request for extension, the Planning Commission shall consider the following:
  - a. Whether a lawful change in the neighborhood of the property has made the subdivision, as originally approved, incompatible with neighboring properties or presented impacts to neighboring properties and infrastructure not foreseen before such land use change occurred; and
  - b. Whether a change in the street and highway plan or the plan for any public facilities and/or services, or the projected impact of area development on streets, highways, water and sewer and other facilities has made the subdivision, as originally proposed, problematic; and
  - c. Any change in zoning and/or subdivision regulations; and
  - d. Any changes in the Town Comprehensive Plan.
  - e. The Planning Commission may require that an impact study as provided in §3.3 of this Ordinance be completed in connection with a request for an extension.

**B. Changes May be Required**

In conjunction with an approved extension, the Planning Commission may require that changes in the plat be made upon finding that time has necessitated changes for the benefit of the public health, safety, and welfare.

**C. Expiration of Extension Period**

Upon expiration of any extension period approved herein, the plat shall be deemed disapproved by the Planning Commission.

**D. Approved Plats exempted from Regulatory Changes**

Any approved Preliminary Plat or any plat continued for further study by the Planning Commission shall be exempted from changes in the regulations governing subdivisions for a period of two years from the date of approval of the Preliminary Plat. Exemptions from changes in the subdivision regulations shall not be extended, even if the Preliminary Plat is extended as provided above.

## **§ 3.2.4 Submittal Requirements**

### **A. Concept Plat Requirements**

The concept subdivision plat package shall meet the requirements as to content and organization as may be established by the Planning Commission and at minimum shall include the following:

1. A plan of lot subdivision, and
2. The contents set forth in Section §3.1.4 of this Ordinance.

### **B. Preliminary Plat Requirements**

1. Order of Plan Sheets: Preliminary subdivision plat submittals shall adhere to the order of plan sheets established by the Planning Commission with any additional required details and plan drawings inserted into the order prescribed by the Town.
2. Contents of Preliminary Plat:
  - a. The applicant shall submit a preliminary subdivision plat to show the nature and extent of all contemplated improvements and lot subdivisions, to be developed from the concept plat and each of the specific contents set forth in §3.1.5B of this Ordinance.
  - b. The plat shall be a multiple sheet document with drawings on sheets no larger than 24 inches by 36 inches and at a scale no less detailed than 1 inch equal to 100 feet. Submittals shall meet specific technical requirements as may be set forth in the Town design and construction standards.
  - c. A preliminary plat shall show the location of all existing and proposed recorded easements and rights-of-way that affect the property and a citation of any recorded easements, restrictions, reservations or covenants that affect the property.

### **C. Final Plat Requirements**

The applicant shall prepare and submit a Final Subdivision Plat. The final plat shall comply with all existing laws, regulations, and ordinances governing the approval of subdivision plats and provide accurate dimensions and construction specifications to provide the data necessary for the issuance of building permits.



1. In addition to meeting the submittal requirements of a preliminary subdivision plat, the final plat shall meet all specific technical plan submittal requirements as may be required by the Town.
2. Submittals shall demonstrate compliance with any conditions of preliminary plat approval and shall include all necessary approvals from any local, county, state, and/or federal agencies.
3. As a condition of final plat approval, the Planning Commission may establish additional submittal requirements for a final plan, and may waive, a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper decision on the project.
4. Final subdivision plat submittals shall adhere to the order of plan sheets required of preliminary plats as provided in this Ordinance with any additional required details and plan drawings inserted into the order prescribed by the Town.

**D. Platting as Pertains to the Original Tract**

1. The Planning Commission shall require that the remaining original tract be shown as stated in the appropriate paragraph below.
  - a. If less than five acres of land remain in the original tract after the lots are excluded then the entire tract (lots and the remainder) must be platted.
  - b. If more than five acres of land remain in the original tract after the lots are excluded then the owner is not required to plat the remaining acreage.
2. The owner is required to submit a plan showing the entire acreage and the location of lots being platted and any previous platted lots. The owner is required to keep this plan current with the process of subdivision approval and platting.

## **§3.3      Impact Studies**

### **§3.3.1      Impact Studies May Be Required**

#### **A.      Impact Studies**

To assist the Planning Commission and Zoning Administrator to determine the nature and extent of off-site impacts of a proposed development they are authorized to review, both are authorized to require applicants for development plan or plat approval, or for extensions of approved plans or plats, to prepare studies of the impacts of proposed development on such factors including Town infrastructure such as water and sewer, streets, and highways in the Town and in the vicinity of the development, the Town's fiscal and budget conditions, area environmental conditions including considerations related to light, air, view sheds, and the flow and quality of water.

#### **B.      Reasonable Standards**

The Planning Commission and Zoning Administrator shall find that such studies meet reasonable professional and technical standards before accepting them for review. The Town may establish written standards and specifications for the scope and detail necessary for any required studies.

#### **C.      Studies Submitted Prior to Approval**

If impact studies plans are determined to be required, no preliminary site plan or subdivision plat shall be approved nor shall an approved plan be extended, prior to such studies being completed to the satisfaction of the Planning Commission or other approving authority or appropriate official.

## § 3.4      Annexation Plan Review

### § 3.4.1      Annexation Review

#### A.      Applicability

No annexation resolution shall be acted on by the Town Council until the Planning Commission shall have had the opportunity to review the proposed annexation and the concept development plan, if applicable as may be required by §3.4.2 of this Ordinance, and provide a recommendation to the Town Council.

#### B.      Planning Commission Review

The Planning Commission shall make findings of fact with respect to the each of the following and shall forward such findings along with its recommendation to the Town Council for its consideration.

1.      The degree of conformance of the proposed annexation to the Comprehensive Plan in general and the Plan's adopted Municipal Growth Element in particular.
2.      The existing and future availability of public facilities and services to meet the demands of development which would be allowed under the recommended zoning of the annexation property.
3.      The viability and practicality of public and/or private plans to extend, enlarge, or otherwise make existing Town facilities and services, and other utilities and services available to the annexation property.
4.      The impact of the contemplated development of the annexation property on the Town's fiscal condition and budget.

#### C.      Planning Commission Recommendation

1.      The Planning Commission's written recommendation to the Town Council on each annexation shall address the following:
  - a.      Whether the annexation should be approved or denied by the Town Council and any conditions related thereto.
  - b.      If applicable, whether the concept development plan is favorable and what changes if any should be made thereto prior to approval of the annexation.

- c. The impact of the annexation on the planning and timing of infrastructure and the Town's budget plan for infrastructure development.
2. The Planning Commission shall propose a zoning classification for the property.

### **§ 3.4.2 Annexation Concept Development Plan**

#### **A. Concept Plan Required**

1. A concept development plan, prepared to standards established by the Planning Commission, shall be required to assist the Town in the review of any proposed annexation wherein the Town is not the initiating party.
2. Where applicable, a concept development plan shall be officially introduced by the Town Council along with the annexation resolution, it shall be made part of the official record of the public hearing on the annexation and it shall be recorded in the land records of Cecil County by the applicant upon annexation.

#### **B. Exceptions to Required Concept Development Plan**

The following two conditions must be found by the Town Council to be met, if an annexation is to proceed without a concept development plan:

1. The eventual use of the property and its impact on its neighborhood is constrained by its relatively small size, and the proposed zoning is fully consistent and compatible with the surrounding land use pattern; and
2. Adequate safeguards can be set forth in the text of an annexation agreement to ensure that the Town's interests are protected and advanced.

#### **C. Future Development to Conform to Concept Development Plan**

1. When a site plan or subdivision plat is proposed for a property which was the subject of an annexation concept development plan, the plan or plat shall substantively conform to the annexation concept development plan.
2. The Zoning Administrator or Planning Commission shall not accept a site plan or subdivision plat for review that does not substantively conform to its concept development plan as set forth in paragraph D of this section, except as provided in paragraph 3 below.

3. The Planning Commission may accept a site plan or subdivision plat for review that does not substantively conform with a required annexation plan if each of the following conditions is met:
  - a. The Planning Commission first holds a public hearing wherein the applicant shall be asked to explain the proposed deviations; and
  - b. The Planning Commission finds that the proposed deviations are not inconsistent with the Town Comprehensive Plan; and
  - c. The proposed deviations would not materially impact the ability of the Town to provide public water and sanitary sewer services or other services and facilities, and
  - e. The proposed deviations would not require a change in the zoning district to implement.
4. The Planning Commission is under no obligation to approve a plan or plat that deviates from an annexation concept development plan but, provided the conditions in paragraph 3 above are met, it shall review the plan or plat under the standard processing procedures provided for in this Article.

**D. Standards for Substantial Conformance**

The Planning Commission shall apply the standards in this paragraph below in determining if a site plan or subdivision plat is in substantial conformance with its annexation concept plan, if applicable. To be found in substantial conformance, a development plan shall not:

1. Propose a land use, a pattern of residential densities, or an arrangement of land uses other than that shown on the concept development plan.
2. Propose a different type of housing or commercial development which would in the judgment of the Planning Commission (1) materially increase the impact to area infrastructure and public services or (2) not serve the same public need contemplated by concept development plan (e.g. need for affordable housing, senior housing, etc.).
3. Result in the reduction of more than three percent or one-half (½) acre (whichever is the lesser) of the land area collectively planned to be set aside for natural area preservation, buffering, forest conservation, common open space, and/or recreation.
4. Increase the number of dwelling units by more than five percent for any residential project of 100 units or less, or more than three percent for any residential project of more than 100 dwelling units.

5. Increase the square footage of non-residential building space in a manner which would in the judgment of the Planning Commission materially increase the impact to the natural environment or materially intensify the impact to area infrastructure and/or public services or affect the ability of public service providers to adequately serve the proposed development.
6. Increase the amount of impervious surface area by more than five percent for any project less than 40 acres in size or by more than three percent for any project larger than 40 acres.
7. Materially change the arrangement of streets, sidewalks, and trails, the general location of intersection(s), and the proposed access /circulation plan for the site.
8. Change in any material way the extent, scale, provision, or timing of any off-site infrastructure project required or contemplated by the concept development plan or annexation agreement if applicable.